

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

MICHAEL LEE GORDON,

Petitioner,

v.

CASE NO. 2:06-cv-00065
JUDGE HOLSCHUH
MAGISTRATE JUDGE KING

STATE OF OHIO,

Respondent.

OPINION AND ORDER

On October 3, 2006, the Magistrate Judge issued a *Report and Recommendation* recommending that the instant petition for a writ of habeas corpus pursuant to 28 U.S.C. §2254 be dismissed because petitioner had procedurally defaulted the claims asserted in this action. Petitioner has filed objections to the Magistrate Judge's *Report and Recommendation*. See Doc. No. 25. For the reasons that follow, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED and AFFIRMED** and this action is hereby **DISMISSED**.

Petitioner objects to the Magistrate Judge's conclusion that he failed to demonstrate cause for his procedural defaults in failing to file a timely appeal to the Ohio Supreme Court. As he did before the Magistrate Judge, petitioner again argues that prison officials prevented him from filing timely appeals and failed to provide adequate resources for him to do so; in making these arguments, petitioner again refers to the exhibits he attached in support of this allegation. Petitioner also objects to the Magistrate Judge's denial of his request for an evidentiary hearing on the issue of whether petitioner can establish cause for his procedural defaults.

Pursuant to 28 U.S.C. 636(b)(1), this Court has conducted a *de novo* review of those portions

of the *Report and Recommendation* objected to by petitioner. After careful consideration of the entire record, this Court agrees with the Magistrate Judge's conclusion that petitioner has failed to establish cause for his procedural defaults, and that an evidentiary hearing on the issue of cause is not warranted. Therefore, for the reasons detailed in the Magistrate Judge's *Report and Recommendation*, petitioner's objections are **OVERRULED**. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

The Clerk is **DIRECTED** to enter **FINAL JUDGMENT** dismissing this case.

Date: October 26, 2006

/s/ John D. Holschuh
John D. Holschuh, Judge
United States District Court